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*Attorneys for Plaintiffs Capana Swiss Advisors AG
and AmeriMark Automotive AG, and Third-Party Defendants
Shaen Bernhardt, Martin Fasser Heeg, and Stefan Kammerlander*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

CAPANA SWISS ADVISORS AG, a Swiss
corporation; AMERIMARK
AUTOMOTIVE AG, a Swiss corporation,

Plaintiffs,

v.

RYMARK, INC., a Utah corporation;
NICHOLAS THAYNE MARKOSIAN, an
individual; JOHN KIRKLAND, an individual;
and VICKY SMALL, an individual,

Defendants.

**PLAINTIFFS' OBJECTION TO
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR
PROTECTIVE ORDER TO MAINTAIN
CONFIDENTIALITY DESIGNATIONS
FOR VIOLATION OF THE LOCAL
RULES**

Case No. 2:23-cv-00467

Judge: Hon. Ted Stewart

Magistrate Judge: Hon. Cecilia M. Romero

Plaintiffs and Counterclaim Defendants Capana Swiss Advisors AG and AmeriMark Automotive AG (collectively, “Plaintiffs”), through undersigned counsel, submit the following Objection to Defendants’ overlength Opposition to Motion re Confidentiality Designations (ECF No. 182) for violation of this Court’s local rules.

This Court’s local rules are clear: motions and responses that do not fall within Rules 12(b), 12(c), 23(c), 56(a), or 65 are limited to 10 pages or 3,100 words. DUCivR 7-1(a)(4)(D)(i). “The caption, face sheet, table of contents, table of authorities, signature block, certificate of service, and exhibits do not count toward the page or word limit.” *Id.*, 7-1(a)(6)(B). Further, “a party must first obtain a court order authorizing the additional pages or words before filing a motion, response, or reply that exceeds the page or word limits in section 7-1(a)(4). The motion must be filed, and the order obtained, before filing the overlength motion, response, or reply.” *Id.* at 7-1(a)(7)(A).

Defendants’ Opposition to Plaintiffs’ Motion for Protective Order to Maintain Confidentiality Designations is 15 pages long, excluding the caption, signature block, and exhibits. (ECF No. 182). Defendants did not request leave of this Court to file an overlength Motion. In fact, Defendants appear to have been fully aware of the page limitations and attempted to conceal the overlength nature of their Opposition by using Romanettes instead of page numbers for the Introduction, Pertinent Factual Background, and Legal Standard sections of their Opposition. (*See id.* at pp. i-x). This is directly contrary to the plain language of the local rules and an obvious attempt to deceive Plaintiffs and the Court. Such actions should not be condoned by this Court. Given Defendants’ failure to file an Opposition that adheres to proper page limits or to file a motion for overlength briefing demonstrating good cause for the same, Plaintiffs object to the Opposition in full.

DATED: December 11, 2024

VENABLE LLP

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Erik A. Christiansen

Hannah J. Ector

By: /s/ Sarah E. Diamond

Attorneys for Plaintiffs Capana Swiss

Advisors AG, AmeriMark Automotive AG,

Shaen Bernhardt, Martin Fasser Heeg, and

Stefan Kammerlander

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of December, 2024, I caused a true and correct copy of the foregoing **PLAINTIFFS' OBJECTION TO DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR PROTECTIVE ORDER TO MAINTAIN CONFIDENTIALITY DESIGNATIONS FOR VIOLATION OF THE LOCAL RULES** to be filed on the Court's CM/ECF platform, which sent notice to all counsel of record.

/s/ Hannah Ector

Hannah Ector